



DEPARTMENT OF JUSTICE

[CPCLO Order No. 005-2023]

Privacy Act of 1974; Systems of Records

AGENCY: Department of Justice.

ACTION: Notice of a new system of records.

SUMMARY: Pursuant to the Privacy Act of 1974 and Office of Management and Budget (OMB) Circular No. A-108, notice is hereby given that the United States Department of Justice (DOJ or Department) proposes to develop a new system of records titled National Law Enforcement Accountability Database, JUSTICE/DOJ-022. The Department proposes to establish this system of records to promote new and strengthened practices in the hiring, promotion, and retention of law enforcement officers. On May 25, 2022, the President issued an Executive Order, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety* (the “Executive Order”). Section 5 of the Executive Order directs the Attorney General to establish a National Law Enforcement Accountability Database (the “NLEAD”) documenting instances of law enforcement officer misconduct, commendations, and awards. The Attorney General shall also ensure that the NLEAD is consistent with all applicable laws, including the Privacy Act, and respects appropriate due process protections for law enforcement officers.

DATES: In accordance with 5 U.S.C. 552a(e)(4) and (11), this notice is effective upon publication, subject to a 30-day period in which to submit comments. Please submit any comments by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: The public, OMB, and Congress are invited to submit any comments by mail to the United States Department of Justice, Office of Privacy and Civil Liberties,

ATTN: Privacy Analyst, Two Constitution Square, 145 N St. NE, Suite 8W-300, Washington, DC 20530; by facsimile at 202-307-0693; or by email at privacy.compliance@usdoj.gov. To ensure proper handling, please reference the above CPCLO Order No. on your correspondence.

FOR FURTHER INFORMATION CONTACT: Brian Merrick, Deputy Director, Service Delivery Staff, United States Department of Justice, Justice Management Division, Two Constitution Square, 145 N St., NE, Suite 4W-202, Washington, DC 20530; Brian.Merrick@usdoj.gov, 202-514-0070.

SUPPLEMENTARY INFORMATION: In Executive Order 14074, the President declared a policy that strives to “strengthen public safety and the bonds of trust between law enforcement and the community and build a criminal justice system that respects the dignity and equality of all in America.” As explained in the Executive Order, one of the many ways to advance that policy is to “commit to new practices in law enforcement recruitment, hiring, promotion, and retention, as well as training, oversight, and accountability.” In furtherance of these goals, Section 5 of the Executive Order directs the Attorney General to establish the NLEAD for official records documenting law enforcement officer misconduct, commendations, and awards. Section 5 provides that the NLEAD include, to the maximum extent permitted by law, the following categories of records documenting: criminal convictions; suspension of a law enforcement officer’s enforcement authorities, such as de-certification; terminations; civil judgments related to official duties, including amounts if publicly available; resignations or retirements while under investigation for serious misconduct; and sustained complaints or records of disciplinary action based on findings of serious misconduct. The NLEAD shall also include official records documenting officer commendations and awards, as the Attorney General deems appropriate.

Pursuant to Section 5(e) of the Executive Order, the NLEAD shall be used, as appropriate and consistent with applicable law, in the hiring, job assignment, and promotion of Federal law enforcement officers, as well as in the screening of State, Tribal, local, and territorial law enforcement officers who participate in programs or activities controlled by Federal law enforcement agencies, such as joint task forces or international training and technical assistance programs, including programs managed by the Department of State and the DOJ. State, Tribal, local, and territorial law enforcement agencies are encouraged to contribute to and use the NLEAD in a manner consistent with applicable law.

The Department proposes to establish the NLEAD system of records to fulfill the mandate of the Executive Order and facilitate new and strengthened hiring practices while protecting the safety, privacy, and due process rights of law enforcement officers who may be identified in the NLEAD.

In accordance with 5 U.S.C. 552a(r), the Department has provided a report to OMB and Congress on this new system of records.

Dated: November 20, 2023.

Peter A. Winn,
Acting Chief Privacy and Civil Liberties Officer,
United States Department of Justice.

JUSTICE/DOJ-022

SYSTEM NAME AND NUMBER:

National Law Enforcement Accountability Database, JUSTICE/DOJ-022.

SECURITY CLASSIFICATION:

Controlled unclassified information.

SYSTEM LOCATION:

Records will be maintained by a Department-authorized cloud service provider and the records will be required to be maintained within the Continental United States. Records can be accessed from all locations at which DOJ System Managers operate or are supported, including the Two Constitution Square building, 145 N Street NE, Washington, DC 20530.

Some or all system information may be duplicated at other locations where the Department has granted direct access to support DOJ System Manager operations, system backup, emergency preparedness, and/or continuity of operations. For more specific information about the location of records maintained in this system of records, contact the system manager using the contact information listed in the "SYSTEM MANAGER(S)" paragraph, below.

SYSTEM MANAGER(S):

DOJ Chief Information Officer, (202) 514-3101, 145 N Street NE, Washington, DC 20530.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 3301; Executive Order 13764, *Amending the Civil Service Rules, Executive Order 13488, and Executive Order 13467 To Modernize the Executive Branch-Wide Governance Structure and Processes for Security Clearances, Suitability and Fitness for Employment, and Credentialing, and Related Matters*; and Executive Order

14074, *Advancing Effective, Accountable Policing and Criminal Justice Practices to Enhance Public Trust and Public Safety.*

PURPOSE(S) OF THE SYSTEM:

Records in this system will be used by Federal law enforcement agencies to assess the loyalty, trustworthiness, suitability, and/or eligibility of an individual for hiring, job assignment, or promotion as a law enforcement officer, as well as the screening of State, Tribal, local and territorial law enforcement officers who participate in programs or activities over which Federal agencies exercise control, such as joint task forces or international training and technical assistance programs.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former law enforcement officers, including but not limited to full and part-time employees, detailees, and task force personnel.

CATEGORIES OF RECORDS IN THE SYSTEM:

Identifying information regarding the law enforcement officers in the Categories of Individuals above, including records, or indications of the existence of records, relating to: (i) criminal convictions; (ii) suspension of a law enforcement officer's enforcement authorities, such as de-certification; (iii) terminations; (iv) civil judgments, including amounts (if publicly available), related to official duties; (v) resignations or retirement while under investigation for serious misconduct; (vi) sustained complaints or records of disciplinary action based on findings of serious misconduct; and (vii) commendations and awards.

RECORD SOURCE CATEGORIES:

Sources of information contained in this system are individuals and entities at law enforcement agencies and the individuals listed in the Categories of Individuals above.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b), all or a portion of the records or information contained in this system of records may be disclosed as a routine use pursuant to 5 U.S.C. 552a(b)(3) under the circumstances or for the purposes described below, to the extent such disclosures are compatible with the purposes for which the information was collected:

a) Designated officers and employees of agencies, offices, and other establishments in the executive, legislative, and judicial branches of the Federal Government, in connection with the hiring or continued employment of an employee or contractor, the conduct of a suitability or security investigation of an employee or contractor, or the grant, renewal, suspension, or revocation of a security clearance, to the extent that the information is relevant and necessary to the hiring agency's decision.

b) Designated officers and employees of State or local (including the District of Columbia) law enforcement or detention agencies in connection with the hiring or continued employment of an employee or contractor, where the employee or contractor would occupy or occupies a position of public trust as a law enforcement officer, to the extent that the information is relevant and necessary to the recipient agency's decision.

c) Federal, State, local, or private entities where appropriate for purposes of certification of security clearances of participants in training, conferences, meetings, facility visits, and similar activities.

d) To an organization or individual in the public or private sector where there is reason to believe the recipient is or could become the target of a particular criminal activity or conspiracy or other threat, to the extent the information is relevant to the protection of life, health, or property. Information may be similarly disclosed to other recipients who share the same interests as the target or who may be able to assist in protecting against or responding to the activity or conspiracy.

e) To appropriate officials and employees of a Federal agency for which the Department is authorized to provide a service, when disclosed in accordance with an interagency agreement and when necessary to accomplish an agency function articulated in the interagency agreement.

f) To any person(s) or appropriate Federal, State, Tribal, local, territorial, or foreign law enforcement authority authorized to assist in an approved investigation of or relating to the improper usage of DOJ information technologies, information systems, and/or networks.

g) To any criminal, civil, or regulatory law enforcement authority (whether Federal, State, Tribal, local, territorial, or foreign) where the information is relevant to the recipient entity's law enforcement responsibilities.

h) To a governmental entity lawfully engaged in collecting law enforcement, law enforcement intelligence, or national security intelligence information for such purposes.

i) To any person, organization, or governmental entity in order to notify them of a serious terrorist threat for the purpose of guarding against or responding to such a threat.

j) To Federal, State, local, territorial, Tribal, foreign, or international licensing agencies or associations which require information concerning the suitability or eligibility of an individual for a license or permit.

k) Where a record, either alone or in conjunction with other information, indicates a violation or potential violation of law—criminal, civil, or regulatory in nature—the relevant records may be referred to the appropriate Federal, State, local, territorial, Tribal, or foreign law enforcement authority or other appropriate entity charged with the responsibility for investigating or prosecuting such violation or charged with enforcing or implementing such law.

l) To any person or entity that the Department has reason to believe possesses information regarding a matter within the jurisdiction of the Department, to the extent

deemed to be necessary by the Department to elicit such information or cooperation from the recipient for use in the performance of an authorized activity.

m) In an appropriate proceeding before a court, grand jury, or administrative or adjudicative body, when the Department of Justice determines that the records are arguably relevant to the proceeding; or in an appropriate proceeding before an administrative or adjudicative body when the adjudicator determines the records to be relevant to the proceeding.

n) To an actual or potential party to litigation or the party's authorized representative for the purpose of negotiation or discussion of such matters as settlement, plea bargaining, or in informal discovery proceedings.

o) To the news media and the public, including disclosures pursuant to 28 CFR § 50.2, unless it is determined that release of the specific information in the context of a particular case would constitute an unwarranted invasion of personal privacy.

p) To contractors, grantees, experts, consultants, students, and others performing or working on a contract, service, grant, cooperative agreement, interagency agreement, or other assignment for the Federal Government, when necessary to accomplish an agency function related to this system of records.

q) To a former employee of the Department for purposes of: responding to an official inquiry by a Federal, State, or local governmental entity or professional licensing authority, in accordance with applicable Department regulations; or facilitating communications with a former employee that may be necessary for personnel-related or other official purposes where the Department requires information and/or consultation assistance from the former employee regarding a matter within that person's former area of responsibility.

r) To a Member of Congress or staff acting upon the Member's behalf when the Member or staff requests the information on behalf of, and at the request of, the individual who is the subject of the record.

s) To the National Archives and Records Administration for purposes of records management inspections conducted under the authority of 44 U.S.C. 2904 and 2906.

t) To appropriate agencies, entities, and persons when: (1) the Department suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the Department has determined that as a result of the suspected or confirmed compromise there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs (whether maintained by the Department or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the Department's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

u) To another Federal agency or entity, when the Department determines that information from this system of records is reasonably necessary to assist the recipient agency or entity in (1) responding to a suspected or confirmed breach or (2) preventing, minimizing, or remedying the risk of harm to individuals, the recipient agency or entity (including its information systems, programs, and operations), the Federal Government, or national security, resulting from a suspected or confirmed breach.

v) To any agency, organization, or individual for the purpose of performing authorized audit or oversight operations of the Department, and meeting related reporting requirements.

w) To such recipients and under such circumstances and procedures as are mandated by Federal statute or treaty.

POLICIES AND PRACTICES FOR STORAGE OF RECORDS:

Records are maintained in electronic storage media, in accordance with the safeguards mentioned below.

POLICIES AND PRACTICES FOR RETRIEVAL OF RECORDS:

Data is retrieved by searching an individual's name, date of birth, and/or social security number.

POLICIES AND PRACTICES FOR RETENTION AND DISPOSAL OF RECORDS:

The Department is working with the National Archives and Records Administration to create a records retention and disposal schedule for records in the NLEAD.

ADMINISTRATIVE, TECHNICAL, AND PHYSICAL SAFEGUARDS:

Information in this system is safeguarded in accordance with appropriate laws, rules, and policies, including the Department's automated systems security and access policies and Interconnection Security Agreements (ISAs) with Federal agency subscribers. Access to such information is limited to Department personnel, contractors, and other personnel who have an official need for access in order to perform their duties. Records are maintained in an access-controlled area, with direct access permitted to only authorized personnel. Electronic records are accessed only by authorized personnel with accounts on the Department's network. Additionally, direct access to certain information may be restricted depending on a user's role and responsibility within the organization and system. Any electronic data that contains personally identifiable information will be encrypted in accordance with applicable National Institute of Standards and Technology standards when transferred between the Department and the subscriber agency.

RECORD ACCESS PROCEDURES:

A request for access to a record from this system of records must be submitted in writing and comply with 28 CFR Part 16, and should be sent by mail to the Justice Management Division, ATTN: FOIA Contact, Room 1111, Robert F. Kennedy Department of Justice Building, 950 Pennsylvania Avenue, N.W., Washington, DC 20530-0001, or by email at JMDFOIA@usdoj.gov. Correspondence should be clearly marked "Privacy Act Access Request." The request should include a general description of the records sought, and must include the requester's full name, current address, and date and place of birth. The request must be signed and dated and either notarized or submitted under penalty of perjury. While no specific form is required, requesters may obtain a form (Form DOJ-361) for certification of identity from the FOIA/Privacy Act Mail Referral Unit, Justice Management Division, United States Department of Justice, 950 Pennsylvania Avenue N.W., Washington, DC 20530-0001, or from the Department's web site at http://www.justice.gov/oip/forms/cert_ind.pdf.

More information regarding the Department's procedures for accessing records in accordance with the Privacy Act can be found at 28 CFR Part 16 Subpart D, "Protection of Privacy and Access to Individual Records Under the Privacy Act of 1974."

CONTESTING RECORD PROCEDURES:

Individuals seeking to contest or amend records maintained in this system of records must direct their requests to the physical or electronic address indicated in the "RECORD ACCESS PROCEDURES" paragraph, above. All requests to contest or amend records must be in writing and the correspondence (and envelope or email subject line) should be clearly marked "Privacy Act Amendment Request." All requests must state clearly and concisely what record is being contested, the reasons for contesting it, and the proposed amendment to the record.

More information regarding the Department's procedures for amending or contesting records in accordance with the Privacy Act can be found at 28 CFR § 16.46, "Requests for Amendment or Correction of Records."

NOTIFICATION PROCEDURES:

Individuals may be notified if a record in this system of records pertains to them when the individuals request information utilizing the same procedures as those identified in the "RECORD ACCESS PROCEDURES" paragraph, above.

HISTORY:

None.

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